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STATE LEGISLATURE, MADRAS

THE MADRAS LEGISLATIVE COUNCIL.

Saturday, the 7th July 1962.

The House met in the Council Chamber, Fort St. George, at three of the clock, Mr. Chairman (THE HON. DR. P. V. CHERIAN) in the Chair.

I.—RULING *re* ADMISSIBILITY OF QUESTIONS.

MR. CHAIRMAN : The hon. Member Dr. A. Sreenivasan has given notice of Legislative Council Question Nos. 77, 78 and 79 to elicit information as to the number of cases admitted during a particular period in the Government Hospital, Kancheepuram, for (i) transverse presentation, (ii) Fother Giffs Operation, and (iii) Forceps delivery and the number of cases that proved fatal. These questions have been admitted.

Dr. A. Lakshmanaswami Mudaliar, Leader of the Opposition, has raised a point of order as to the admissibility of the questions. His objections are three-fold, namely, (i) that it is not parliamentary practice to ask questions in regard to particular persons in their professional capacity; (ii) that the questions are of such a nature that they are likely to produce in the public mind a state of alarm; and (iii) that these questions are an abuse of the right of interpellation and hence liable to be disallowed under rule 34 of the Council Rules.

After very careful consideration of the points raised by the hon. the Leader of the Opposition, I must state, with very great respect to the hon. the Leader of the Opposition, that on facts, the assumption that the member has asked questions in regard to particular persons is not correct. There is no reference whatsoever to any individual person in any of these questions.

Rule 32 (2) of the Council Rules provides that the question must not publish any name not strictly necessary to make the question intelligible. Therefore, if any of the questions had published any name, I would have disallowed the question myself. It is not also correct to say that questions cannot be asked with regard to particular persons in their professional capacity. Clause (7) of Rule 32 says that the question must not refer to the character or conduct of any person *except* in his official or public capacity. Therefore, what is prohibited is only a reference to the character and conduct of any person in his private or personal capacity. Under the rule, as it stands, it is permissible to ask questions in regard to the conduct of any person in his official or public capacity. In parliamentary practice, the only accepted condition is that no names shall be mentioned. Therefore, the objection that no question shall be asked in regard to persons in their professional capacity is not sustainable.

[Mr. Chairman] [7th July 1962

Secondly, the objection that the nature of the question is such that it is likely to produce in the mind of the public a state of alarm cannot be accepted. The questions as they stand merely seek information as to the number of certain classes of cases admitted in a Government Hospital and the number of cases that proved fatal. It cannot be presumed that the answer to the questions will disclose a large number of fatal cases and that they might produce a state of alarm in the public mind. A bare statement of the state of affairs need not necessarily produce a state of alarm in the public mind. They may perhaps focus the attention of the Government and the public on the state of affairs prevalent in the particular hospital which may call for remedial measures. Even if that be so, it will not be a ground to justify the question being disallowed because under the rules that is not a ground on which questions can be disallowed.

The admissibility or otherwise of a question is judged by the Chairman with regard to their compliance with the conditions laid down in the relevant rules and he is not and cannot be influenced by any consideration as to whether they will cause any embarrassment to the Government or whether they may create an awkward situation or it is not in public interest. The Government alone are the best judges to decide as to whether an answer to a question would or would not be in the public interest and it is open to them to answer or refuse to answer a question in the public interest. The Chair cannot compel them to give answer or to furnish answer in a particular manner. The Chair has no doubt a duty to ensure that baseless questions are not admitted lest unfounded allegations or insinuations are given undue publicity.

The next question is whether these questions are an abuse of the right of interpellation. On the face of these questions, there is nothing to show that they constitute an abuse of the right of interpellation. As members are aware, the right of interpellation is a very valuable right enjoyed and exercised by a private member. Questions are intended mainly to elicit facts on matters of public importance within the cognizance of the Minister to whom they are addressed. They must relate to public affairs and matters of administration for which the Minister is officially responsible.

It is well established that the right of interpellation is exercised with a view to turn the searchlight on acts of commission and omission and lapses on the part of the administration which would have otherwise gone unnoticed, so as to focus the attention of the Government and seek redressal. The responsibility of the Chairman in regard to questions is limited to their compliance with the Rules of the House. The questions under reference only seek to elicit information in regard to a Government hospital. It cannot be denied that this is of public importance. They relate to public affairs and matters of administration for which the Minister is responsible.

7th July 1962] [Mr. Chairman]

It is well to mention here that the Hon. Minister is ready to furnish the answer to these questions. For these reasons, with very great respect to the hon. the Leader of the Opposition, I overrule the objection raised.

The point of order formulated by the hon. the Leader of the Opposition raises the fundamental issue, namely, whether the admissibility of a question can be made the subject matter of a point of order or debate in the House. Rule 34 of the Council Rules provides that the Chairman shall decide on the admissibility of a question. The Chairman is empowered to disallow any question which, *in his opinion*, is an abuse of the right of interpellation. The admissibility or otherwise of a question is determined by the Chairman with reference to the conditions contained in the rules framed in this behalf. It follows that the Chairman is the one and only authority empowered to admit or disallow any question and once he decides on the admissibility of a question, his decision is final. It cannot be questioned in any manner.

Sir Erskine May says that the Speaker's responsibility in regard to questions is limited to their compliance with the Rules of the House. He further says that the refusal of a question cannot be made the subject of debate. It is also stated that a Member cannot raise a point of order and read out a question disallowed at the Table. It follows from the above that likewise a point of order cannot be raised on the admissibility of a question already admitted by the Chairman in accordance with the rules. It is both the privilege and duty of the Chairman as the guardian and custodian of the rights and privileges of the members, to uphold the valuable right of interpellation and to admit or disallow the questions in accordance with rules and uninfluenced by any considerations other than those laid down in the rules.

Unlike in the Parliaments of certain Continental countries as in France, where the House disallows an interpellation stated in the form of a request by the President to the House, neither in the British Parliament, nor in the Parliament and the State Legislatures in India has any right to disallow the question admitted by the Speaker or Chairman as the case may be, been vested in any authority other than the Speaker or the Chairman. The decision as to the admissibility of a question made by the Chairman is final.

I, therefore, hold that my decision as to the admissibility of these questions is final and the questions as they stand are in order and in accordance with the rules.

They will be taken up at the next meeting as the Hon. Minister for Health is not present today.